

UN Secretary-General's High-Level Panel on Access to Medicines Contribution

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Section 1: ABSTRACT

This contribution/submission highlights the profound accountability gap in global health.

It draws attention to the *Commission on Information and Accountability for Women's and Children's Health* established by the Secretary-General in 2010.

The Commission's final report, *Keeping Promises, Measuring Results*, emphasises the importance of accountability understood as *monitoring, review (including independent review), and remedial action*. Moreover, the Commission's report recommends the Secretary-General establishes an independent Expert Review Group (iERG) for women's and children's health. The Secretary-General adopted this recommendation and the iERG has made a significant contribution to advancing women's and children's health.

The present contribution/submission suggests the High-Level Panel recommends the Secretary-General establishes a nimble, 'lite' independent review body which can help to advance progress in relation to access to medicines and health technologies.

Section 2: CONTRIBUTION

The global health sector is extensive, complex and dynamic and attracts enormous financial resources. Yet it suffers from a profound accountability gap. Exceedingly important global health commitments are made in New York, Geneva and elsewhere - often with much fanfare – but they are usually unaccompanied by any meaningful way of checking whether or not the commitments are honoured. Also, sensible, practical, compelling recommendations are made by illustrious international panels without any simple yet effective device to check if the recommendations are actioned, and if not, why not.

There are several reasons for this accountability gap, some of them associated with political economy. Power-holders with commitments may not wish to be held accountable for their responsibilities. In this short submission, however, I focus on another reason for the accountability gap in global health.

Many working in global health confuse monitoring with accountability. Global health tends to be strong on monitoring i.e. gathering masses of data and information on what is happening. But this is not accountability. Monitoring is one crucial step towards accountability.

Happily, a high-level panel on global health recently sorted out what accountability means.

In 2010, the Secretary-General appointed a high-level Commission, chaired by PM Stephen Harper (Canada) and President Jakaya Kikwete (Tanzania), to advise on accountability for

women's and children's health. Known as the *Commission on Information and Accountability for Women's and Children's Health*, this 30-member Commission included 11 current Presidents, Prime Ministers or Ministers, as well as other prominent leaders in global health, including from the pharmaceutical sector and civil society.

The Commission's report, *Keeping Promises, Measuring Results*, was published in 2011. This 21-side report - with its 10 recommendations - provided a great service by unpacking accountability and explaining that it has three inter-related but distinct elements:

1. *Monitoring* - "information on what is happening, where and to whom (results) and how much is spent, where, on what and on whom (resources)." (page 7). As already observed, the global health sector usually focuses on monitoring.
2. *Review* – according to the report, this has two limbs and the second limb is especially vital: "analysing ... whether pledges, promises and commitments have been kept by countries, donors and non-state actors." (page 7). Usually, the global health sector is extremely weak on second-limb review.
3. *Remedial action* – i.e. putting things right, as far as possible, if they have not gone as promised or planned.

The key contribution of *Keeping Promises, Measuring Results* was to distinguish monitoring and accountability, and to highlight that review is an integral element of accountability. Monitoring is *not* accountability but one (vital) step towards accountability.

Well-respected in UN circles, Julian Schweitzer recently wrote in the *British Medical Journal*: "The [Commission's] definition of accountability—a cyclical process of monitoring, review, and action that emphasises human rights principles of equality, non-discrimination, transparency, and partnership—is now widely accepted in global health”.

Keeping Promises, Measuring Results makes another vital contribution. It signals that effective review requires an *independent* component. That is why, for example, the report recommends (rec 10) the Secretary-General establishes an *independent* Expert Review Group for Women's and Children's Health (iERG).

Moreover, the Secretary-General followed this advice and established a 9-member iERG (2011-2015) which reported to him annually. Its mandate included reporting on the degree to which states and non-state actors had implemented the Commission's 10 recommendations in *Keeping Promises, Measuring Results*. The iERG was supported by a very small secretariat based in WHO. Designed for the MDG era, iERG came to an end, as planned, in 2015. Importantly, it has been succeeded by a 9-member Independent Accountability Panel (on women's and children's health). Lessons were learned from the iERG's experiences and there are some differences between the iERG and the Independent Accountability Panel. However, the essentials are the same, including the concept of accountability as monitoring, review, and remedial action.

I respectfully suggest that the High-Level Panel on Access to Medicines (HLP) recommends the Secretary-General establishes an Independent Review Panel (IRP), in keeping with *Keeping Promises, Measuring Results*, to help ensure the HLP's recommendations are actioned.

What should fall within the scope of the IRP? Perhaps the following:

1. The HLP's recommendations.
2. The HLP may wish to endorse some key *existing* commitments, pledges and promises of states and non-state actors in relation to access to medicines and health technologies. The IRP could be asked to assess whether or not states and non-state actors are honouring these existing commitments, pledges and promises.
3. Respect for certain key principles, enshrined in the International Bill of Rights, such as the dignity and well-being of individuals, non-discrimination, equality, equity, transparency and accountability.

Four brief supplementary points:

1. I doubt the existing Independent Accountability Panel should be asked to take on board the HLP's recommendations. For one thing, the Independent Accountability Panel is *on women's and children's health*, for another, it already has extremely broad responsibilities.
2. The IRP would not be very expensive, but it would not be cheap either. Members of the IRP would not be paid but their expenses would have to be covered. They would need a secretariat of 2-3 staff. I very much doubt the IRP would be established without one or two donors providing sufficient funds for a trial period of (say) three or four years.

If the HLP is minded to recommend an IRP, I respectfully suggest private discussions with prospective donors begin as a matter of urgency.

3. At the global level, independent review should feed into a political process. If it does not feed into a political process there is a danger its worthy reports and assessments will receive very little attention. Where should the IRP report? First, to the Secretary-General. Second, a suitable political process (or more than one). I am not sure which process is the best, but candidates include the GA, WHO Executive Board and World Health Assembly.

Notably, the iERG only reported to the Secretary-General, while its successor, the Independent Accountability Panel, will report to both the Secretary-General *and* the Board of the Partnership on Maternal, Newborn and Child Health.

4. While some may call for the IRP to have the power to impose formal sanctions, in my view this fails to recognise that at the international level there are very few bodies with such power. However, if the IRP consists of independent women and men of high-standing who prepare compelling public assessments of good quality which feed into apposite political processes, it is likely to exercise considerable influence.

Conclusion

Via human rights treaty-bodies and Special Rapporteurs appointed by the UN Human Rights Council, the UN human rights system already provides some independent review of access to medicines and health technologies. However, the HLP could help to supplement and deepen this independent review. By way of its recommendations, the HLP could help to make independent review of access to medicines and health technologies more detailed, specific,

practical, sustained and compelling. In this way, the HLP would make a significant contribution towards closing the wide accountability gap in global health.

(For further discussion of some of these issues, please see the third bibliographic entry below, published by the *Harvard Health and Human Rights Journal*.)

Declaration

In 2011, I served on one of the two Working Groups of the *Commission on Information and Accountability for Women's and Children's Health*. In 2014, I also served as a consultant to iERG in relation to its country visits to Malawi and Peru.

Section 3: REFERENCES AND BIBLIOGRAPHY

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May this submission be made public? YES
